

**CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK
(IBank)**

**ASSIGNMENT OF THE EXECUTIVE DIRECTOR'S DELEGATED
AUTHORITY TO THE CHIEF DEPUTY EXECUTIVE DIRECTOR PENDING
APPOINTMENT OF A NEW EXECUTIVE DIRECTOR**

STAFF REPORT

Issue:

On March 22, 2016, the California Infrastructure and Economic Development Bank (“IBank”) Board of Directors (the “Board”) adopted Resolution 16-07, delegating to IBank’s Executive Director the authority to take certain actions in connection with IBank’s financing programs. Further, certain sections of the Bergeson-Peace Infrastructure and Economic Development Bank Act (California Government Code Section 63000 et. seq.) (the “Act”) grant IBank’s Executive Director certain power to administer and manage the business affairs of IBank. IBank’s prior Executive Director retired from State of California (“State”) service, and resigned her position as IBank’s Executive Director, in the end of November, 2018. In order to maintain the efficiency and productivity of IBank, Staff recommends that the Board delegate to IBank’s Chief Deputy Executive Director: (1) the authority delegated to IBank’s Executive Director under Resolution 16-07, and (2) the power to exercise the Executive Director’s authority to administer and manage the business affairs of IBank granted under the Act. These delegations would last until the Governor appoints a new Executive Director, at which time they would expire.

Background:

IBank is a competitor in the financial markets. IBank’s primary business lines include (1) providing direct financing to governmental entities for infrastructure and economic development projects, (2) acting as a conduit bond issuer to assist nonprofit corporations, eligible for-profit businesses, and certain governmental entities obtain necessary financing, and (3) providing credit enhancements to assist small businesses access capital. In order to compete in the financial marketplace, IBank must have the ability to react quickly to address market changes and its customers’ needs.

The Act’s structure provides IBank the flexibility the financial marketplace demands. In general, the Act provides that the Board governs IBank and exercises its corporate powers. (Government Code Section (“GC”) 63025.1.) In particular, the Board is responsible for approving any bonds, notes, or loans IBank may issue. (GC 63022.) The Board exercises its power through regularly-scheduled, and at times special, open meetings.

While the Board is responsible for the overall governance of IBank, and must make the key approvals for any IBank financing, the Act entrusts IBank's day-to-day operational decisions in IBank's Executive Director. The Act provides IBank's Executive Director is to manage and conduct the business and affairs of IBank, subject to any direction from the Board. (GC 63022.) In general, the Board may assign by resolution to the Executive Director the duties necessary or convenient to carry-out IBank's "powers and purposes" under the Act. (Id.) Subject to any conditions the Board may prescribe, the Act authorizes the Executive Director to exercise IBank's powers, functions, and duties in connection with the administration and management of IBank's business and affairs. (Id.)

In order to clarify the scope of the Executive Director's authority to act without direct Board approval, the Board adopted a series of "delegation resolutions," authorizing the Executive Director to take certain actions with respect to financings the Board previously approved. Resolution 16-07 is the most recent of these delegation resolutions. Among other things, Resolution 16-07 authorizes the Executive Director to: (1) amend bond-related documents, subject to receipt of an appropriate bond counsel opinion; (2) execute documents evincing an intent to authorize the reimbursement of eligible capital expenditures with the proceeds of tax-exempt bonds IBank issues; (3) execute documents needed to redeem IBank-issued bonds; (4) execute documents needed to substitute a credit facility in connection with IBank-issued bonds, subject to receipt of an appropriate bond counsel opinion; (5) execute documents necessary to complete post-issuance transactions contemplated in the underlying bond documents; (6) amend IBank's direct financing agreements, so long as the amendment does not increase the principal financing amount, extend the final maturity date, change any security pledged to the financing, or decrease the interest rate; and (7) apply for and receive grant funds. A copy of Resolution 16-07 is attached as Exhibit A.

IBank's Executive Director is appointed by the Governor and serves at the Governor's pleasure. The Executive Director's appointment must be confirmed by the Senate. (GC 63021.) IBank's former Executive Director was appointed in 2011 and served until November 30, 2018, when she resigned her position and retired from State service. A new Executive Director has yet to be appointed. In the absence of a new Executive Director, the putative head of IBank's day-to-day operations is IBank's Chief Deputy Executive Director. However, Resolution 16-07 and the portions of the Act vesting day-to-day operational authority in the Executive Director do not include provisions granting the Executive Director's authority to another in the event the Executive Director position remains vacant. In order to avoid the uncertainty stemming from the lack of any clear authorization for IBank's Chief Deputy Executive Director to act in the place of IBank's former Executive Director, IBank Staff recommends the Board adopt a resolution delegating to the Chief Deputy Executive Director the Executive Director's: (1) powers under Resolution 16-07, and (2) authority under the Act to run IBank's day-to-day operations. Staff further recommends this delegation of authority expire immediately upon the appointment and assumption of office of a new Executive Director.

Recommendation:

Staff recommends approval of Resolution 19-02 delegating to the Chief Deputy Executive Director, or designee (1) the powers of the Executive Director under Resolution 16-07, and (2) the authority to manage the day-to-day business and affairs of IBank granted to the Executive Director under the Act. Resolution 19-02, and any delegation of power or authority to the Chief Deputy Executive Director therein, would terminate immediately and without any further act of the Board immediately upon the appointment of a new Executive Director and that person's assumption of his or her duties as Executive Director.

February 1, 2019

Exhibit A